SUPREME COURT, U. S.
FILED
MAY 27 1975
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1974

No. 74-1485

WILLIAM ENGLISH, JR.,

Petitioner,

v.

HON. ALEXANDER A. LAWRENCE, United States District Judge for the Southern District of Georgia; SEABOARD COAST LINE RAILROAD COMPANY; BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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May 1975.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1974

No. .....

WILLIAM ENGLISH, JR.,

Petitioner,

v.

HON. ALEXANDER A. LAWRENCE, United States District Judge for the Southern District of Georgia; SEABOARD COAST LINE RAILROAD COMPANY; BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS, FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

The petitioner, William English, Jr., respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fifth Circuit entered in this proceeding on February 27, 1975.

Opinion Below

The order of the Court of Appeals, not yet reported, appears in the appendix hereto; no opinion was rendered in either court below.

Jurisdiction

The judgment of the Court of Appeals for the Fifth Circuit was entered on February 27, 1975 (App. 1a), and

this petition for certiorari is filed within 90 days of that date. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

Question Presented

Whether the court below erred by denying mandamus to require that a district judge decide a six year old employment discrimination case which he has kept under advisement for more than two years following trial where the district judge:

1. Has not indicated when, or whether, the case will ever be decided;

2. Has not given any reason for refusing to decide the case and has refused to respond to requests and motions for a decision;

3. Has failed to comply with the Fifth Circuit's direction that the district judge answer plaintiff's mandamus petition;

4. Has a history of never promptly deciding Title VII cases submitted for his decision.

Statutory Provisions Involved

1. This case involves section 706(f)(5) of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(5) [as added March 24, 1972, P.L. 92-26, Title VII, 86 Stat. 107], which provides:

> It shall be the duty of the judge designated pursuant to this subsection to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited. If such judge has not scheduled the case for trial within one hundred and twenty days after issue has been joined, that judge may appoint a master pursuant to rule 53 of the Federal Rules of Civil Procedure.

2. The case also involves the All Writs Act, 28 U.S.C. § 1651(a) [as amended May 24, 1949, c. 139, § 90, 63 Stat. 102] which provides:

> (a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

Statement of the Case

This is a class action in which the plaintiff William English sued his employer and labor union alleging racial discrimination against black workers in violation of federal civil rights laws. The suit was filed in the District Court for the Southern District of Georgia, November 18, 1969, and assigned to the Honorable Alexander A. Lawrence, United States District Judge, sitting in the Waycross Division. The complaint, as amended, alleged violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.*, of 42 U.S.C. § 1981, and of the duty of fair representation under the Railway Labor Act, 45 U.S.C. §§ 151, *et seq.*, by the defendants Seaboard Coast Line Railroad Company (Seaboard) and the Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees, and Locals Nos. 5 and 186 thereof (BRAC).

After a three year period of litigation involving various motions and discovery matters (see Docket *infra*, p. 2a),

including an interlocutory appeal not dealing with the merits,[1] and a preliminary injunction requiring the merger of racially segregated locals of BRAC,[2] the court entered a pre-trial order dated October 24, 1972 (p. 24a, *infra*), setting the case for trial in two stages, with the first stage to commence on January 8, 1973, to "deal solely with the question of discrimination *vel non*." [3] The trial commenced on January 8 and continued on January 9, 10, 11, 15 and 16, 1973 (p. 2a, *infra*). Within a few weeks after trial the parties filed briefs, including proposed findings and conclusions, with the final reply brief being submitted March 5, 1973 *(ibid.)*. From that time until now (more than two years later) the district court has not decided the issue submitted, the question of "discrimination vel non," or stated on the record any reason why the case has not been decided, or when it will be decided.

During these two years petitioner has made many efforts to get the case decided. First, petitioner's counsel wrote letters to the district judge asking that the case be dis-

[1] In the interlocutory appeal the Fifth Circuit held that it was not error for the trial court to require that plaintiff join as defendants one or more white employees of Seaboard. *English* v. *Seaboard Coastline Railroad Co., et al.*, 465 F.2d 43 (5th Cir. 1972). In the opinion rendered on August 7, 1972, the Fifth Circuit noted the slow progress of the case and urged that it be expedited:

> "We note in conclusion that this case is now over two years old and it is still in the pleading stage. Without attempting to designate responsibility for this delay, we urge all concerned to proceed in good faith to bring this litigation to a close." (465 F.2d at 48)

[2] The order is reprinted in 4 CCH EPD ¶ 7645; appendix *infra*, p. 22a.

[3] The order also said "All questions of remedy, injunction, back pay, and attorneys fees shall be reserved for hearing at a later date, after adequate time for preparation by all parties." See Appendix pp. 25a-26a, *infra;* 5 CCH EPD ¶ 8018.

posed of, on November 9, 1973 (p. 8a, *infra*), and again on February 6, 1974 (p. 11a, *infra*). Receiving no answer to the letters, petitioner then filed a motion on April 11, 1974, asking that the case be decided (p. 13a, *infra*). When the court did not act on the motion, petitioner in May 1974 filed further briefs calling the court's attention to a number of Fifth Circuit cases decided in the year since trial, and again filed a pleading requesting that the court enter a decision (p. 16a, *infra*). By August 1974, a year and a half had elapsed since the case was first submitted, and petitioner had received no response from the court to any of these requests for a decision. On August 22, 1974, petitioner's counsel wrote to the Chief Judge of the Fifth Circuit asking for assistance in the matter (p. 18a, *infra*). On September 11, 1974, Chief Judge Brown replied mentioning the district judge's "tremendous caseload" and concluding that "he will get this case out just as soon as he can and understands fully the need for a decision at the earliest possible time" (p. 21a, *infra*). Another four months elapsed and no decision was entered. Petitioner then filed a petition for a writ of mandamus in the Fifth Circuit on January 23, 1975. Four days later, the clerk wrote to Judge Lawrence, advising that "The Court has directed me to request that you file a response to the petition for writ of mandamus filed herein within 21 days." [4] Judge Lawrence filed no response.[5] Responses opposing mandamus were filed by Seaboard and BRAC. No oral argument was held. On February 27, 1975, the court of appeals denied the petition for mandamus without opinion. At the time of the filing of this petition (May 1975) there

[4] See Appendix p. 4a, *infra*.

[5] A copy of the court of appeals docket is in the Appendix at p. 6a. The court of appeals clerk's office also orally advised petitioner's counsel that no response was received from Judge Lawrence.

has still been no decision. If no decision has been made by the time this petition is submitted to this Court's conference in October 1975, the district judge will have failed and refused to decide the case for more than two and a half years.

In opposing mandamus the defendants argued that the district court did sign two injunctive orders since the trial. Actually both orders were submitted to the district judge by agreement of all parties, and these orders did not contain any decision of the merits of the case, *i.e.*, the "question of discrimination vel non." A brief explanation is necessary to understand the meaning of these orders. At trial, plaintiff proved a blatant pattern of racial segregation and exclusion in jobs in Seaboard's Waycross Division which conformed to the factual description given earlier in the Fifth Circuit's opinion on the interlocutory appeal:

> At the time the suit was brought black employees were members of one local and the white employees of the other. Since that time the two locals have merged by order of the district court. . . .
>
> English and the members of his class are black employees of Seaboard in Waycross, Georgia; all employees and job classifications involved are within the BRAC craft unit for collective bargaining purposes. Within the craft unit there are two groups, Group 1 and Group 2, which English describes as "roughly corresponding to clerk's and laborer's jobs," respectively. Group 1 jobs pay better and are more prestigious than Group 2 jobs. The majority of whites hold Group 1 jobs, but there are no blacks in this group category.
>
> Under the collective bargaining agreement between BRAC and Seaboard, Group 1 seniority and Group 2 seniority are kept separate. Group 2 seniority is not transferable to Group 1 in the event of transfer or promotion. In view of the fact that all blacks are in Group 2 no blacks have any usable seniority rights for Group 1 jobs. . . . (465 F.2d at 45)

Plaintiff proved that up to ten days prior to trial all 90 jobs in Group 1 were held by white workers, while all blacks were employed in labor type jobs in Group 2 which employed 37 white and 74 black workers. No black person had been hired for a Group 1 job within the memory of any witness until one black person was hired on the eve of trial. The plaintiff, William English, a well-qualified man with a high school diploma and a year of college, was repeatedly denied Group 1 clerical work and confined to Group 2 laborer's work for 22 years while dozens of less qualified whites were hired and promoted to Group 1. Black workers in Group 2 earned significantly less than whites in Group 1. While the trial was in progress and after plaintiff had presented his case, Seaboard and BRAC negotiated and signed a Memorandum Agreement dated January 12, 1973, which amended the collective bargaining agreement to eliminate references to groups 1 and 2 and merge the separate seniority lists into a single list. This merger was an important element of the relief sought by plaintiff in the case. In the subsequent briefs filed after trial, the company and union contended that this seniority reform, which was made effective March 1, 1973, eliminated the need for any injunction in this case.

On November 16, 1973, Judge Lawrence entered an order, presented by agreement of the parties providing that the January 12, 1973, memorandum of agreement between Seaboard and BRAC was "adopted by this Court and made a part of this order" (p. 27a, *infra*). The order then recites that the parties are enjoined from "engaging in any employment practice or course of conduct which interferes

with or is contrary to this Order." Although it is not reflected on the face of the order, the November 16 order was signed by agreement of all parties to the case. There were no findings of fact or conclusions of law. On January 31, 1974, again by agreement of all parties to the case, the court approved an amendment to the Memorandum Agreement between the company and union (p. 30a, *infra*). Again there were no findings of fact, or conclusions of law filed.

In neither of these orders entered by Judge Lawrence which "adopt" the action taken by the defendants during the trial changing the seniority system, has the court ruled on the issue presented at trial and defined by pre-trial order, the question of "discrimination vel non." Although they agreed to the order of November 16, 1973 (and the January 31, 1974, amendment), the defendants have not admitted, and the court has not found, racial discrimination as alleged by plaintiff. Indeed, in the last pleading filed in the district court May 30, 1974, Seaboard still contended that "No decision of any court alters SCL's previously announced position that no class discrimination has been demonstrated."

The court has not disposed of the remedial questions which were postponed until a "second stage" hearing, which would include the proper scope of final injunctive relief in the case pertaining to racial discrimination in general, and to discrimination in hiring, seniority, segregated local union chapters, reporting of the operation of the newly changed seniority system, back pay, counsel fees and like matters.

The official published statistics on the workload of the Southern District of Georgia (including both judges) indicate that despite the busy workload of the court during 1973 and 1974 the median time from filing to disposition of civil

cases was 8 months and that only a handful of cases (10 in 1973 and 17 in 1974) had been pending more than three years.[6] The time for disposition was slightly *less* than the national average for all district courts, and the percentage of cases over three years old in the Southern District (2.7% in 1973 and 3.6% in 1974) was also *less* than the national average (about 7%).[7] Thus, overall workload statistics for the Southern District do not indicate that the court was unable to dispose of the cases filed. The number of civil filings per judge was lower in 1973 and 1974 (220 and 297 cases) than it was in 1969 (303 civil filings per judge).[8]

The mandamus petition alleged (and the allegation stands uncontradicted) that there were no complicated issues in this case which might explain the delay and that Judge Lawrence had never promptly decided any of the Title VII cases in which he has conducted trials. We quote the statement made on page 13 of the mandamus petition, note 8:

> Judge Lawrence's failure to enter a final judgment to Petitioner's case assumes significance when viewed against the background of his management of the other Title VII cases before him. The final day of trial in *Hart* v. *Buckeye Industries*, Civil Action No. 702 (S.D. Ga., Dublin Div.), was January 22, 1969. Some thirty-three (33) months later, November 8, 1971, the plaintiff in that case had to file a "Motion for Entry of Judgment." Subsequently, the plaintiff filed, but later withdrew, a "Petition for Writ of Mandamus" in the Fifth Circuit. Judge Lawrence never entered a judgment in that case and it was finally disposed of by settlement

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[6] "Management Statistics for United States Courts, 1974," Administrative Office of the United States Courts, pp. 52, 120.

[7] *Id.* at 52, 100.

[8] *Id.* at 52.

on November 27, 1973, after it had been pending before the district court, fully ripe for a decision, for almost five (5) years. The Respondent entered his decision in *East* v. *Romine, Inc.*, Civil Action No. 2815 (S.D. Ga., Savannah Div.), an individual claim under Title VII, on April 30, 1974, some eighteen (18) months after the final date of trial (August 1, 1972), and only after the plaintiff in the case filed a "Motion for Entry of Judgment" on March 11, 1974. *Miller* v. *Continental Can Co.*, Civil Action No. 2803 (S.D. Ga., Savannah Div.), a class action, was tried in August-September, 1973, but, to date, some fifteen (15) months after trial, Judge Lawrence has not entered a judgment.

It is to be emphasized that the above, along with Petitioner's case, are the only Title VII trials completed by Judge Lawrence. The post-trial histories of these cases suggest a pattern of delayed decision-making in employment discrimination cases.

REASONS FOR GRANTING THE WRIT

The Court of Appeals Has So Far Sanctioned a Departure from the Accepted and Usual Course of Judicial Proceedings as to Call for an Exercise of This Court's Power of Supervision.

This is an extreme and unusual situation where a district judge has refused to decide a fully tried and submitted case for more than two years and refuses to explain the delay or give any indication when the decision will be made. Indeed, the case is cut virtually in the pattern of the archetypical extreme case which was thought by the late Judge John Parker to justify both mandamus and enactment of a law giving an administrative sanction in the judicial council. Judge Parker spoke of a hypothetical "Judge Jones":

> If Judge Jones decides a case contrary to the views of the majority of the Circuit Court of Appeals, we can tell him so and reverse him. But if he holds a case under advisement for 2 years, instead of deciding it promptly, there is nothing that we are authorized by the law to do about it in the absence of an application for mandamus. Now, this [bill] authorizes us to do something about it; and I agree with you that something ought to be done about it.[9]

Judge Parker's remarks, which are reprinted as quoted approvingly by Mr. Justice Harlan in the *Chandler* case,[10] were made during Congressional testimony in 1939 in sup-

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[9] Hearing on H.R. 5999, before the House Committee on the Judiciary, 76th Cong., 1st Sess., p. 21.

[10] *Chandler* v. *Judicial Council*, 398 U.S. 74, 101 (1970), concurring opinion of Mr. Justice Harlan.

port of the proposal to create the judicial councils, which eventually became 28 U.S.C. § 332.

Petitioner has not been able to achieve results by either of the approaches mentioned. His attempt to obtain administrative help through a letter to the Chief Judge of the Circuit has not produced any result. His mandamus petition was denied without opinion. The court of appeals denied relief notwithstanding the district judge's failure to offer any reply to the petition as requested by the appellate court. Moreover, petitioner faces truly indefinite delay. The precedent which confronts petitioner is the failure of the same judge to decide a similar case *for five years*, until the parties finally ended the case by settlement. (See Statement *supra* at 9). Where the district judge offers no explanation for the failure to decide the case, petitioner must assume that the district judge will by failing to act deny relief and at the same time indefinitely avoid the possibility of appellate review of the denial of relief.

The delay is all the more egregious because it takes place in a class action intended to vindicate the rights of absent parties, and because it occurs in a type of case which the Congress has expressly ordered to be expedited. (42 U.S.C. 2000e-5(f)(5)) Surely the conduct of this case has not been in accordance with the statutory command that the case "be in every way expedited." Whatever reason may eventually be forthcoming to justify the court's failure to decide the case, and we repeat that none have been offered thus far, the conduct of this case has been a far cry from that envisioned by Section 2000e-5(f)(5).

Moreover, the case assumes added importance when viewed in the context of the district judge's refusal to decide similar employment discrimination cases for extended periods of time. It suggests a substantial nullification of Title VII in the Southern District of Georgia which destroys the credibility of the federal fair employment laws as a deterrent to discrimination in that jurisdiction. If a district court announced that it would refuse to render decisions in Title VII cases notwithstanding the Act of Congress conferring jurisdiction over such matters, no one would suppose that such a substantial thwarting of the Congressional policy would be permitted to stand. Indeed, a decade ago when another district judge refused to enforce the constitutional prohibition against racial segregation in public education, the Fifth Circuit not only issued a mandamus requiring decision, but wrote the injunction the district court was to issue. *Hall* v. *West*, 335 F.2d 481 (5th Cir. 1964). But unless this case is reviewed, now or later, Title VII will have been substantially nullified in this district.

Decisions of this Court from the 19th Century have made it plain that mandamus is appropriate where a court wrongfully refuses to decide a case. In *Knickerbocker Ins. Co.* v. *Comstock*, 83 U.S. (16 Wall.) 258, 270 (1873), the Court said:

> Repeated decisions of this court have established the rule that this court has power to issue a mandamus, in the exercise of its appellate jurisdiction, and that the writ will lie in a proper case to direct a subordinate Federal Court to decide a pending cause. Marbury v. Madison, 1 Cranch 175; Kendall v. U.S., 12 Pet. 622.

Similarly, in *Ex Parte Newman*, 81 U.S. (14 Wall.) 152, 165 (1872), the Court said:

> Applications for a mandamus to a subordinate court are warranted by the principles and usages of law in cases where the subordinate court, having

> jurisdiction of a case, refuses to hear and decide the controversy, or where such a court, having heard the cause, refuses to render judgment or enter a decree in the case; . . .

See also, *McClellan* v. *Carland*, 217 U.S. 268, 280 (1910); *Ex Parte Bradstreet*, 32 U.S. (7 Pet.) 634 (1833); *Re Grossmayer*, 177 U.S. 48 (1900); *New York Life & Fire Ins. Co.* v. *Wilson*, 33 U.S. (8 Pet.) 291 (1833); *Ex Parte Pennsylvania Co.*, 137 U.S. 451 (1890); *Ex Parte Kawato*, 317 U.S. 69 (1942); *Schwab* v. *Coleman*, 145 F.2d 672 (4th Cir. 1944); *Steccone* v. *Morse-Starrett Products Co.*, 191 F.2d 197, 199 (9th Cir. 1951); *Schendel* v. *McGee*, 300 F. 273 (8th Cir. 1924); *Barber Asphalt Pav. Co.* v. *Morris*, 132 F. 945 (8th Cir. 1904); *In Re Watts*, 214 F. 80 (2nd Cir. 1914); *Pacific Tel. & Tel. Co.* v. *Cushman*, 292 F. 930 (9th Cir. 1923); *Hall* v. *West*, 335 F.2d 481 (5th Cir. 1964).

In 1972, the Fifth Circuit noted the slow progress of this case and urged that all parties proceed "in good faith to bring this litigation to a close." *English* v. *Seaboard Coastline Railroad Co.*, 465 F.2d 43, 48 (5th Cir. 1972). That gentle admonition was insufficient. For reasons we cannot know, the court of appeals held back from taking the sterner step of issuing a mandamus. Unless this Court exercises its power of supervision and issues the writ, petitioner and the members of his class will simply be deprived of an adjudication of their claims under the Civil Rights Act. When this case is presented to the Court for decision next October, it will be nearly 7 years old and, if no decision has been rendered by that time, it will have been kept under advisement for 33 months since the conclusion of the trial. This extraordinary set of circumstances calls for use of the extraordinary writ of mandamus.

CONCLUSION

For the reasons stated, it is respectfully submitted that the petition for certiorari should be granted to review the judgment of the Court of Appeals for the Fifth Circuit.

Respectfully submitted,

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Attorneys for Petitioner

May 1975.

APPENDIX

Judgment of Court of Appeals,
February 27, 1975

IN THE

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 75-1209

In re:

WILLIAM ENGLISH, JR.,

Petitioner.

ON PETITION FOR WRIT OF MANDAMUS

B e f o r e :

GEWIN, GOLDBERG and DYER,

Circuit Judges.

By the Court:

IT IS ORDERED that the petition for writ of mandamus is DENIED.

District Court Docket Entries

(See Opposite) ☞

TITLE OF CASE	ATTORNEYS
WILLIAM ENGLISH, JR.	For plaintiff: Fletcher Farrin BOBBY L. HILL 208 E.34th Street ~~438½ West Broad St.~~ Savannah, Georgia
vs.	Morris J. Baller 10 Columbus Circ New York, N. Y.
SEABOARD COASTLINE RAILROAD CORPORATION; LOCALS NO. 5 and NO. 1586; BROTHERHOOD RAILWAY, STEAMSHIP CLERKS, FREIGHT HANDLERS, AIRLINE STATION EMPLOYEES; INTERNATIONAL BROTHERHOOD OF RAILWAY, STEAMSHIP CLERKS, FREIGHT HANDLERS, AIRLINE AND STATION EMPLOYEES	Defendant: General Attorney Edward A. Charron 500 Water Street Jacksonville, Fla.
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STATISTICAL RECORD	COSTS			DATE 1969	NAME OR RECEIPT NO.	REC.			
J.S. 5 mailed	Clerk			11-19	#48572	15	00		
				11-20	C/D 20			15	0
J.S. 6 mailed	Marshal								
Basis of Action: Alleged Discrimination on Job because of Race	Docket fee								
	Witness fees								

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BEST COPY AVAILABLE

DATE	PROCEEDINGS	Date Judgm
11-18-69	Filing Original Complaint. Copies prepared and summons issued; mailed to U. S. Marshal for service. J. S. 5 Card prepared.	
12-15-69	Filing Marshal's Return on Service: Defendants served through their representatives in Waycross, Georgia, on December 8, 1969.	
12-24-69	Filing Defendant's Answer, with certificate of service thereon. (Seaboard Coastline)	
12-24-69	Filing Defendant's Motion to Dismiss and for More Definite Statement. (Seaboard Coast	
1- 8-70	Filing and entering Order allowing Extension of Time for Filing Defensive Pleadings to include the 28th day of January, 1970.	
1-14-70	Filing Interrogatories of Seaboard Coast Line Railroad Company to plaintiff, with certificate of service thereon.	
1-26-70	Filing Answer of Defendants to complaint, with certificate of service thereon	
3-23-70	Filing Plaintiff's First Interrogatories to Defendant Seaboard Coast Line Railroad Company, with certificate of service thereon.	
4-23-70	Filing Defendant's Amendment to Answer, with Order allowing same attached thereon and Certificate of Service attached thereto.	
9-10-70	Filing defendants' Affidavit in Support of Motions to Dismiss, with certificate of service thereon.	
9-10-70	Hearing held this date on Defendant Seaboard Coastline's Motion to Dismiss, to Strike and for More Definite Statement. Motions argued by counsel for parties. Court took under advisement. Plaintiff to file Brief in 30 days.	
10-12-70	Filing Supplemental Motions to Dismiss by Defendant Seaboard Coast Line Railroad Company, with certificate of service thereon.	
11-11-70	Plaintiff's Answers to Interrogatories propounded by defendant Seaboard Coast Line Railroad Company filed.	
11-27-70	Filing Plaintiff's Motion for Leave to File Amended Complaint, with certificate of service thereon.	
11-27-70	Filing Plaintiff's Memorandum of Law, with certificate of service thereon.	
11-27-70	Filing Plaintiff's First Amended Complaint, with certificate of service thereon.	
12- 2-70	Filing Defendant Seaboard's Second Amendment to Answer, with certificate of service.	
12- 2-70	Filing Defendant Seaboard's Motion to Dismiss, with certificate of service.	
12- 3-70	Filing Defendant Seaboard's Objections to Plaintiff's First Amendment, with certificate of service thereon.	
12-29-70	Filing Defendant Seaboard's Request for Admissions of Facts, with Certificate of Service thereon.	
1- 4-71	Filing Plaintiff's Reply to Objections of Defendant Seaboard Coast Line Railroad Company to Plaintiff's Motion for Leave to File Amended Complaint.	
1-11-71	Filing Answer of Defendant Seaboard Coast Line Railroad Company to Interrogatories served by Plaintiff, with certificate of service thereon.	
1-12-71	Filing Defendant Seaboard Coast Line Railroad Company's Second Interrogatories, with Certificate of Service thereon.	
1-21-71	Filing Defendant Seaboard Coast Line Railroad Company's First Motion for Summary Judgment, with Certificate of Service thereon.	
2- 3-71	Filing Plaintiff's Answers to Defendant Seaboard Coast Line Railroad Company's Request for Admissions of Facts, with certificate of service thereon.	
2-13-71	Filing Memorandum of Defendants Brotherhood of Railway and Airline Clerks and BRAC Locals Nos. 5 and 1586 supporting Objections to Proposed Amendment of Complaint with certificate of service thereon.	
2-12-71	Filing Answer of Defendants Brotherhood of Railway and Airline Clerks and BRAC Locals Nos. 5 and 1586 Objecting to Amendment of Complaint, with certificate of service thereon.	
2-12-71	Filing Answer of Defendants Locals Nos. 5 and 1586 of Brotherhood Railway, Steamship Clerks, Freight Handlers, Airline Station Employees, Waycross, Georgia, and the International Brotherhood of Railway, Steamship Clerks, Freight Handlers, Airline and Station Employees to First Amended Complaint, with certificate of service there	

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D. C. 110 Rev. Civil Docket Continuation

DATE 1971	PROCEEDINGS	D. Jud.
Feb. 16	Filing Defendant's Notice to take deposition of James E. Wolfe upon oral examination at his home at 226 Holmes Avenue, Clarendon Hill, Ill., at 10:00 A. M. on the 25th day of March, 1971., with Notice to Plaintiff's Attorney and certificate of service.	
Feb. 16	Filing Defendant, Brotherhood of Railway and Airline Clerks to Dismiss the First Amended Complaint or in the alternative grant the Defendant Summary Judgment, with memorandum of points and authorities in support of motion to dismiss and affidavit of Kenneth D. Shaw, Vice President of BRAC., with certificate of service. Copy delivered to the Law Clerk	
Feb. 16	Filing Motion of Defendant, Brotherhood of Railway and Airline Clerks to Dismiss the complaint or in the alternative, Grant Defendant Summary Judgment, Memorandum of points in support of its motion to Dismiss Complaint and affidavit of Kenneth D. Shaw and certificate of service. Copy delivered to the Law Clerk.	
Mar. 1	Filing Defendant's Request for Admission of Documents, with certificate of service.	
Mar. 5	Memorandum of Points and Authorities of Defendants in support of their Motion to Dismiss the Complaint or in the alternative, grant the Defendants Summary Judgment with respect thereto.	
Mar. 5	Filing Motion of Defendants Locals No. 5 and 1586 of the Brotherhood of Railway and Air Line Clerks to Dismiss the Complaint or in the alternative Grant the Defendants Summary Judgment., with certificate of service.	
Mar. 5	Filing Affidavit of Kenneth D. Shaw.	
Mar. 5	Filing Supplemental Affidavit of Kenneth D. Shaw.	
Mar. 22	Filing Motion of Defendants Locals and Aurline Clerks to Dismiss First Amended Complaint or, in the alternative, grant defendants' Summary Judgment.	C
Mar. 22	Filing Memorandum of Points and authorities of Defendants Locals and Airline Clerks in support of there motion to Dismiss First amended complaint .	
Mar. 29	Filing Interrogatories No. 1 of Defendants Brotherhood of Railway and Airline Clerks and Locals No. 5 and No. 1586 thereof to William English, Jr., Plaintiff, with certificate of service.	
Apr. 5	Plaintiff's Reply to First Motion for Summary Judgment of Defendant Seaboard Coast Line Railroad Company.	
Apr. 5	Filing Plaintiff's Memorandum of Law in opposition to Motions to Dismiss of Defendant.	
Apr. 5	Filing Plaintiff's requests for Admission with Notice to Attorney for Defendant.	
Apr. 5	Filing Plaintiff's Answers to Defendant's Second Interrogatories	
May 4	Filing Objections to Plaintiff's Requests for Admissions, with Certificate of Service.	
May 20	Filing Amendment to Defendant's Objections to Plaintiff's Request for Admissions, with certificate of service.	
May 21	Filing Notice to take testimony of William English, Jr. by Defendant on the 16th day of June, 1971 at 10:00 A. M. in the conference room of Connerat, Dunn Hunter, et al in Savannah, Ga.	
June 3	Filing Motion for Partial Summary Judgment and To Strike Portions of Plaintiff's Complaint.	
June 4	Filing Defendant's Motion for Partial Summary Judgment and to Strike portions of Plaintiff's Complaint. Copy delivered to the Law and entered on Motion Docket.	
June 4	Filing Defendant's Motion to require further answers to Defendant's Interrogatori Entered on docketof Motions and delivered to the Law Clerk.	
June 11	Filing Plaintiff's Memorandum in opposition to Motion of Defendants Local Lodges No. 5 and 1586 (BRAC) To Dismiss or for Summary Judgment. Copy delivered to the Law Clerk.	
June 11	Filing Plaintiff's Request for Production of Documents with Certificate of service. Copy delivered to the Law Clerk.	

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1971 DATE	PROCEEDINGS	D Ju
June 15	Filing Notice of Motion and attached Motion for a Hearing in Nature of Pre-Trial conference, and for an order limiting further motions to dismiss or for summary Judgment.	
June 17	Filing Plaintiff's Answers to Interrogatories No. 1 of Defendants Brotherhood of Railway and Airline Clerks and Local No. 5 and No. 1586, with certificate of service. Copy delivered to the Law Clerk.	
June 17	Filing Plaintiff's First Interrogatories to Defendants Brac and Locals 5 and 1586 thereof.	
June 17	Filing Plaintiff's Further Motion for leave to amend Complaint	
June 24	Filing Defendant's Objections to Request for Production of Documents, filed 6/11/71.	
Jun 29	Filing and entering Plaintiff's second interrogatories to defendant Seaboard coast line railroad company with certificate of service.	
Jul 8	Filing unsealed Deposition of William English, Jr., taken by defendants.	
Jul 8	Filing Objections of Defendants Brotherhood of Railway and Airline Clerks and BRAC Locals Nos. 5 and 1586 to Answering the Plaintiff's First Interrogatories At this Time.	
Jul 8	Answer of Defendants Brotherhood of Railway and Airline Clerks and BRAC Locals Nos. 5 and 1586 in Opposition to Motion of Plaintiff for Hearing in the Nature of a Pre-Trial Conference and for an Order Limiting Further Motions to Dismiss or for Summar; Judgment.	
Jul 30	Filing Defendant Seaboard Coast Line Railroad Company's Answers to Plaintiff's Secor Interrogatories, with certificate of service thereon.	
Aug. 13	Motion to Compel Defendant Seaboard to Answer Plaintiff's Request for Admissions and Memorandum in Support of Plaintiff's Request for Admissions, with certificate of service thereon.	
Aug. 13	Motion to Compel Production of Documents for Inspection and Copying and for Costs and Memorandum in Support of Motion, with certificate of service thereon.	
Aug. 13	Filing Memorandum in Opposition to Defendant Seaboard's Motion to Strike Portions of Plaintiff's Complaint, with certificate of service thereon.	
Aug. 13	Hearing held at Savannah on various Motions of plaintiff and defendants. Seaboard given 60 days to answer Requests for Admissions; within 60 days, defendant to make available records to plaintiffs for inspection and copying	
Aug. 17	Filing Order on Motions of Plaintiff and Defendants.	
Sept. 7	Filing and entering order staying the action until Plaintiff files an amendment.	
Sept 9	Filing and entering order directing that a class action shall be maintained under the provisoons of Rule 23 of the Federal Rules of Civil Procedure as amended. with attached notice of pendency and copy of notice. Copy of order exxx served to all counsel this date.	
Sept. 18	Filing Motion of Plaintiff to Certify the Order of September 7, 1971, as Appealab e, with certificate of service thereon.	
Sept. 18	Filing and entering Amended Order stating that Order of September 7, 1971 is appealable and allowing plaintiff ten days to file an application for permission to appeal. Copies served on all counsel.	
Oct. 7	Filing Defendant Seaboard Coast Line Railroad Company's Answers to Plaintiff's Requests for Admission, with certificate of service thereon.	
Oct. 8	Filing Interrogatories to Members of the Class Represented by William English, Jr. with certificate of service thereon.	
Oct. 15	Filing Seaboard Coast Line Railroad Company's Answers to Plaintiff's Second Interrogatories.	
Oct. 18	Filing letter from Morris J. Baller addressed to Malcolm Maclean, Attorney regarding the availability in Waycross of certain documents which were ordered by the Court to produce for inspection and copying, to-wit: Typing tests, seniority rosters and the Seaboard Memorandum regarding educational criteria.	

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1971	PROCEEDINGS	F Ju
Nov. 9	Filing Plaintiff's Answers and Objections to Interrogatories served by Defendant Railroad, with certificate of service.	
Nov. 9	Filing Plaintiff's Motion for a Protective Order, with certificate of service.	
Nov. 9	Filing Plaintiff's Brief in support of Plaintiff's Motion for a Rule 26 Protective order, with certificate of service.	
Nov. 9	Filing Notice of and Motion of Plaintiff to enforce immediate compliance with order of the Court, and for an award of costs amd Counsel Fees.	
Nov. 12	Filing true copy of Order issued by the United States Court of Appeals for the Fifth Circuit on application for leave to appeal from an interlocutory order entered on September 18, 1971 granting the application and ordering that it be expedited.	
Nov. 15	Filing copies of Correspondence relative to possible merger of consolidation of locals (two letters)	
Nov. 17	Filing Seaboard Coast Line Railroad Company's Third Interrogatories, Defendant propounded to Plaintiff, with certificate of service.	
Nov. 22	Filing Notice of and Motion of Plaintiff to Withdraw Motion to enforce immediate compliance with order of this Court and and for an award of costs and Counsel's fees filed November 8, 1971. In accordance with this motion removed the motion for motion docket.	
Nov. 23	Filing Certificate of service filed by Defendant certifying that in accordance with this Court's order of August 17, 1971, that a copy of Notice of Pendency of Action and Request for Exclusion has been posted on the respective bulletin and handed to the persons involved except those listed on letter from W. W. Huckeb: attached to certificate and certification of mailing copy of this certificate on counsel.	
Nov. 24th	Record on Interlocutory Appeal consisting of documents as shown on copy of Index in file and original deposition of William English, Jr., mailed this date to Court of Appeals, New Orleans, La.	
Nov. 26	Filing Plaintiff's Supplemental Answers to Defendant, Seaboard Coast Line Railroad Company's Interrogatories served on Plaintiff on October 8, 1971, with Cert. of service.	
Nov. 26	Filing Plaintiff's Further Answers to Interrogatories of Defendant, in compliance with order of Court entered August 17, 1971, hereby provoding further answers to certain Interrogatories previously propounded by Defendant.	
Nov. 29	Filing Acknowledgment from U. S. Court of Appeals of the record on appeal, receive: in that office November 26, 1971.	
Dec. 16	Filing Renewal of Plaintiff's Motion to Compel Answers to his Interrogatories to Defendant Unions and for Costs, with certificate of service thereon.	
Dec. 20	Filing Answers of Defendants Brotherhood of Railway and Airline Clerks and Locals 5 and 1586 thereof to Plaintiff's First Interrogatories, with certificate of servi thereon.	
Dec. 20	Filing Plaintiff's Answers to Seaboard's Third Interrogatories, with certificate o: service thereon.	
Dec. 23	Filing Answer of Brotherhood of Railway and Airline Clerks and Locals 5 and 1586 thereof in Opposition to Renewal of Plaintiff's Motion to Compel Answers to Interrogatories, with certificate of service thereon.	
Dec. 27	Filing Notice of Motion and Motion of Plaintiff for a preliminary injunction.	
Dec. 27	Filing Court's Order to Show cause why an order should not be entered enjoining Defendant from ordering, requiring or approving consolidation of Defendant Local Union 1586 of BTAC with Defendant Local Union 5 of BRAC to be held at 10:00 A. M. on December 28, 1971, in the United States Courthouse at Savannah, Georgia. Copy	

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DATE	PROCEEDINGS	F Ju
	of show cause order mailed to all Counsel of Record this date.	
12-28-71	Hearing held this date on plaintiff's Motion for preliminary injunction on merger of BRAC Nos. 5 and 1586. Witnesses sworn and evidence introduced.	
12-28-71	Filing plaintiff's memorandum of law in support of motion for preliminary injunction.	
12-28-71	Filing and entering Order recessing proceedings until 3:00 P.M. 1-27-72 in Savannal and further restraining and enjoining unions from completing merger until 1-27-72. (All counsel served with copies of this Order by hand this date.)	
1972		
Jan. 25	Filing Answer of Brotherhood of Railway & Airline Clerks to Motion of Plaintiff for Preliminary Injunction concerning consolidation of Brac Locals 5 & 1586.	
Jan. 25	Filing Memorandum of Points & authorities of Brotherhood of Railway and Airline Cler in support of opposition to Motion of the Plaintiff for a preliminary injunction co the consolidation of Brac locals 5& 1586.	
Jan. 25	Filing Affidavit of A. L. Groves with exhibits attached.	
Jan. 27	Hearing held this date on question of proposed merger of 2 unions. Order to be en when parties have worked out details and submitted Order to the Court.	
Jan. 27	Filing Supplemental Memorandum of Law in Support of Plaintiff's Motion for a Preli Injunction with certificate of service attached.	
Jan. 28	Filing order of court dated January 28, 1972 with directives and guidelines as to t merger of Local Lodge No. 5 and Local Lodge No. 1586 with the Grand Lodge and t issuance of new charter.	
March 8	Filing Plaintiff's Request for Admission of Facts with Notice to Attorney for Defendant.	
March 17	Filing Defendant's Response to Request for Admission of Facts, with certificate of service.	
Apr. 26	Filing Defendant's (Seaboard Coast Line RR) third amendment to its Answer, with certificate of service thereon.	
Apr. 26	Filing Defendant's (Seaboard Coast Line RR) eighth Motions stating that they move the court for an order limiting all back pay sought under Title VII of the Civil Rights Act of 1964, that such orders issue defining and limiting the scope of the available recovery in this case, with certificate of service thereon.	
Apr. 28	Filing Defendant's Motion that the Court order Trial by Jury of all issues herein in any/relating to monetary relief, with certificate of service thereon.	
May 9	Filing Plaintiff's Further Request for Admission of Facts with Notice to Counsel for Defendant.	
May 9	Filing Seaboard Coast Line Railroad Company's Response to Plaintiff further request for admission of Facts., with certificate.	
May 25th	Filing Plaintiff's Third Interrogatories to Defendant Seaboard Coas Line Railroad, With certificate of service attached.	
May 31	Filing Defendant's objections to Plaintiff's Third Interrogatories, with certificate of service attached.	
May 31	Filing Defendant's motion to dismiss all claims, to reduce any atto fees, to limit monetary damages, if recovered, and to limit the rel sought to the Stores Department of the Seaboard Coast Line Railroad Company's Waycross Division., with certificate of service thereon.	
June 7	Filing Supplement to Plaintiff's further request for admission of facts, with certificate of service attached.	
June 15	Filing Defendant's Second Objections to Plaintiff's Third Interrog with certificate of service.	

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D. C. 110A Rev. Civil Docket Continuation

DATE 1972	PROCEEDINGS
August 30	Filing Opinion and Judgment of the United States Court of Appeals affirming the order of this Court appealed from issued 8-18-71 and remanding the cause to the District Court in accordance with the opinion of that Court, further ordering that the Plaintiff-appellant be condemned to pay in-half of the costs on appeal to be taxed by the Court of Appeals and that the Defendants-appellees be condemned to pay one-half of said costs.
Sept. 1	Filing Order of this Court making the Judgment of the United State Court ofAppeals the Judgment of the District Court, further orderin that Plaintiff amend his complaint to join as Defendants one or mor White Employees of Seaboard Coastline Railroad , whose seniority ma be affected by the outcome of this case. Failure to do so within 30 days will result in dismissal of this case.
Sept. 1	Filing Plaintiff's Amended Complaint. Prepared summons and deliver to the United States Marshal for service on Robert Thigpen and Dell Beasley, white employees holding jobs in group 1 at Defendant Railroad, Waycross, Georgia Division. Copy served on Counsel.
Sept. 5	The original Exhibits returned to this office from the office of Clerk, U. S. Court of Appeals filed with the interlocutory appea
Sept. 7	Filing copy of Bill of Costs issued by the United States Court of Appeals for the Fifth Circuit , taxed against the parties equally for costs incureed in the Court of Appeals.
Sept 7	Filing Defendant's Motion for the Court to order that notice be given to allmembers of the class of defs, in order that all members of said class be apprised of;the pendency of this action and their rights and responsibilities herein.
Sept 7	Filing and entering Order of Court order/ing that all members of said cl be apprised of the pendency of this action. Copy of Order served on all Counsel of record and notice of filing served also this date.
)Sept.8	Filing letter of record informing that the cost of $136.35 has been paid by Malcolm Maclean to Fletcher Farrington in accordance with Bill of Cost approved by Fifth Circuit.
Sept. 12	Filing Plaintiff's Motion to Compel Answers to Plaintiff's Discovery and to shorten time to answer, with certificate of service.
Sept. 15	Filing U. S. Marshal's Return on Civil Complaint served on Mr. Dell Beasley, Waycross, Ga., served on 9-7-72 and Return on service of Complaint on Mr. Robert Thigpen, Waresboro, Georgia on September 7, 1972.
Sept. 22	Filing Defendant's Certificate of service of copy of Notice of Pendency of Action by posting on respective bulletin boards and handing to the persons in accordance with this Court'sorder of September 7, 1972 except for those listed on list attached to this certificate and by mailing a copy to Messrs Baller, Fletcher, farrington, James L. Highsaw, Stanley Karsman and Edward A. Charron dated this date.
Sept.25	Filing Defendants Motion for COURT to issue Order compelling Pltf. to join the aforementioned employees as parties defts herein.

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DATE 1972	PROCEEDINGS
Sept. 25	Filing and entering Order of Court that Pltf. show cause on Oct. 20, 1972 at 10:00 A.M. why said motion should not be granted. Notice of filing and copy of order served on all parties.
Sept. 27	Filing Motion to Dismiss by Defendants Dell Beasley, Robert Thigpen and J. F. Yawn, Jr. and other persons similarly situated having been made Defendants pursuant to order of this Court dated September 7, 1972 and Answer of the aforesaid Defendants.
Sept. 29	Filing Plaintiff's Amendment to his Motion to Compel answers to Plaintiff's Discovery and to shorten time to Answer, with certificat of service attached.
Oct. 11	Filing Copy of Seaboard Coast Line Railroad Company's Seventh Brief The original delivered to Judge Lawrence by the Railroad's Attorney.
Oct. 16	Filing Copy of Seboard Coast Line Railroad Company's Sixth Brief. Original delivered to the Judge .
Oct. 16	Filing Defendant Railroad's Second Response to Plaintiff's(Second) Request for Admission of Facts.
Oct. 16	Filing Defendant Railroads's Supplemental Answers to Plaintiff's Third Interrogatories.
Oct. 16	Filing Defendant Railroad's Second Response to Further Request for admission of facts and supplement thereto.
Oct. 18	Filing Defendant Seaboard Coast Line Railroad Company's Motion to compel Plaintiff to provide notice of magnitude and method of couputation to be provided as to each employee relative back pay.
Oct. 18	Filing and entering order amending prior order of Court dated Sept. 7, 1972, to join as parties defendant all former members of the Transportation-Communication Employees Union in or near Waycross, Ga., who are now shown onthe July 1, 1972, seniority roster for the Brotherhood of Railway,AAirline and Steamship Clerks, Freight Handlers, Express and Station Employees for the Waycross Division, SCL Railroad Company.
Oct. 19	Filing Plaintiff's First Request for Admissions of Fact to Defendant BRAC, with notice to Defendant's Attorneys.
Oct. 19	Filing Plaintiff;s Fourth Interrogatories to Defendant Seaboard Coastline Railroad Company, with Noticeto Defendants' Attorneys.
Oct. 20	Pre-Trial conference held this date - not recorded - Counsel consented to trial of all issues before Court without Jury - Motion of white employees overruled - Case assigned for trial at 9:30 A.M. on January 8th, 1973 - to be tried in Two phases - first phase to encompass issue of discrimination - second phase to encompass phase of back pay and injunctive relief - counsel appraised of time of trial in open Court.
Oct. 20	Defendant Seaboard Coast Line Railroad filed Identification of Additional Patties and 8th Brief.
Oct. 24	Filing order of Court upon various motions of the parties denying Defendant Railroad's Motion for a jury trial; Denying Defendant's requests to expand the scope of this litigation to encompass the entire Waycross Division and that the Court confine the action to Stores Department in Waycross and the prior ruling as to the scope the case remains in effect; Denying Defendant SCL's motions to compel Plaintiff to describe in detail has proposed method for Computation of back pay with the suggestion that such information is

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D. C. 110A Rev. Civil Docket Continuation

DATE 1972	PROCEEDINGS
	obtainable through interrogatories to obtain plaintiff's theory; Denying Defendant's Motion to Dismiss the class action and attorneys' fees portions of the claim' The Joinder of Former Transportation-Communication Employees Union Members at or near Waycross having been accomplished by amended order October 18, 1972-this motion is moot; Plaintiff's Motions to compel answers to discovery are denied as moot Defendants, Beasley, et al (the white clerks) Motion to Dismiss - Denied; Trial of this case shall be in two stages to commence Jan. 8, 1973 in Savannah shall deal solely with the question of discrimin vel non. All other questions shall be reserved for hearing at a later date. [copy of order mailed to all counsel).
Oct. 26	Filing Seaboard Coast Line Railroad Company's Fourth Interrogatories to Plaintiff, with certificate of service attached.
Oct. 31	Filing Fourth Interrogatories of Plaintiff propounded to Defendant and Plaintiff's Request for Production of Documents, with cert. of service to Charles Edwards, Attorney for Defendant.
Nov. 3	Filing Answers of Def. SCL to Plaintiff's Fourth Interrogatories, with certificate of service attached.
Nov. 3	Filing Seaboard Coast Line Railroad Company's Motion for Reconsidera with certificate of service thereon.
Nov. 6	Filing Third Certificate of Service stating that notice of pendency of action has been delivered to all parties listed in the ID of additional parties filed Oct. 19, 1972.
Nov. 16	Filing Response of SCL Railroad Company to Plaintiff's second set of Interrogatories numbered "Fourth" and Plaintiff's Request for production of Documents,with certificate of service attached.
Nov. 16	Filing Defendant, SCL Railroad Co.'s Supplemental Answers to Plaintiff's first and second Interrogatories, with certificate of service atta ched.
Dec. 7	Filing Seaboard Coast Line Railroad Company's Motion to Compel Answers to Interrogatories, with certificate of service attached. (Copy delivered to Judge Lawrence.)
Dec. 13	Filing Plaintiff's Notice to take deposition of four persons listed below, beginning on December 20, 1972, said depositions shall be taken in the office of the Division Superuntendent, Seaboard Coast Line Railroad Company, Waycross, Georgia The Deponents are: Mr. W. W. Huckeba(10 A.M.) Seaboard Coast Line Terminal; Waycross, Ga. Mr. A. A. Karle(11 A.M.) Seaboard Coast Line Terminal, Waycross, Ga. Mr. K. C. May (2P.M.) Seaboard Coast Line Terminal, Waycross, Ga. Mr. Robert Toning (4 P.M.) Seaboard Coast Line Terminal, Waycross, Ga.

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DATE 1972	PROCEEDINGS
Dec. 21	Hearing heldthis date before the Court at Savannah, Georgia on Defendant's Motion for jury trial and Plaintiff's objections to compel answers to interrogatories. Court overruled the Motion for jury trial. On objection to interrogatories, after conference between the Court and counsel, Counsel was directed to get together and interrogatories to be directed through the Court to each member of the class with respect to qualifications as to clerical work.
Dec. 22 1973	Filing Plaintiff's Answers to Seaboard's Fourth Interrogatories, with certificate of service attached.
Jan.8	Filing Depositions
Jan 8	Filing Pre-Trial Memorandum for Plaintiff, with certificate of servic
Jan. 8	Filing Affidavit of Frederick S. Mittleman.
Jan. 8	Filing Answer of Defendant, Brotherhood of Railway and Air Line Clerks to Plaintiff;s First Request for Admissions of Fact to Defendant BTAC, with certificate of service.
Jan. 8	Non-jury trial called this date , all available witnesses called and sworn all Attorneys present. Witnesses began testifying for Plaintiff. Court recessed until 9:15 P.M. on January 9, 1973.
Jan. 9	Court resumed with trial of this case and Witnesses testified and recessed for the day.
Jan. 10	Court resumed with trial of this case and recessed until January 11, 1973.
Jan. 11	Court resumed with Defendant's witnesses testifying and recessed until Monday, January 15, 1973.
Jan. 15	Trial continued with witnesses testifying and recessed until January 16, 1973.
Jan. 16	Trial of case resumed with witnesses testifying. Rebuttal witness for Plaintiff testified and trial recessed at 3:50 P.M. until further notice. All parties to submit briefs by February 19, 1973.
Feb. 20	Filing Copy of Plaintiff's MemorandumAfter Trial and proposed order. The original delivered to Judge Lawrence.
Feb. 20	Filing Post Trial Brief of Defendants Brotherhood of Railway Air Line and Steamship Clerks, Freight Handlers, Express and Station Employees and Locals Nos. 5 and 1586 Thereof on issue of Liability. Mr. Karsman delivered a copy to Judge Lawrence.
Mar. 2	Filing Seaboard Coast Line Railroad Company's Post-trial Reply Brief Proposed order. Copy delivered to Judge Lawrence.
Mar. 5	Filing Plaintiff's reply to post-trial briefs of Defendants SCL and BRAC, with certificate of service attached.
Nov. 16	Filing and entering Order of Court that the parties hereto, their officers, agents, employees, servants and all other persons and organizations in active concert or participation with them, are hereby permanently enjoined and restrained from engaging in any employment practice or course of conduct which interferes with or is contrary to this Order. Notice of filing and copy of order served on all counsel.

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DATE 1973	PROCEEDINGS
Nov. 28	Filing Seaboard Coast Line Railroad Company's Sixteenth Motion requiring class represented by Plaintiff be defined as All Negro Employees of Seaboard Coast Line Railroad Company or its corporate predecessors who have, since July 1, 1965, been a member of or eligible for membership in the Brotherhood of Railway, Airline and Steamship Clerks, Freight handlers, Express and Station Employees, with Rule Nisi Order scheduling show cause hearing before the Court on December 12, 1973 at 11:00 A. M., why the motion should not be granted. (Malcolm Maclean, Counsel for Defendant Railroad served copy of motion and rule nisi setting show cause hearing on all Counsel.)
Dec. 6	Filing Response of Defendants Brotherhood of Railway and Airline Clerks, et al to Defendant Seaboard Coast Line Railroad Company's Sixteenth Motion, with certificate of service.
Dec.7	Filing Motion of Mr. Edward W Coleman, through Counsel, for leave to intervene or alternatively, to appear as amicus Curiae, with memorandum of points and authorities in opposition to Seaboard Coas line Railroad Co's Sixteenth Motions.
Dec. 12	Hearing held this date. Court reserved ruling in said case on the motion to redefine class.
Dec. 13	Filing Order on Motion of Defendant Railroad for expansion of the class represented by the Plaintiff. Copy mailed to all Counsel.
1974	
Jan. 31	Filing Order dated this date amending this Court's order of the 16th day of November, 1973 relative to memorandum agreement merging Brac Groups 1 and 2 over the entire SCL System, effective March 1, 1973 and adopted by the November 16, 1973 order. Said agreements dated January 12, 1973 and January 30, 1974 are amended and adopted by this Court and made a part of this order. [All Counsel mailed a copy of order].
Mar. 22	This case consolidated this date by order of Court entered in Savannah C/A 2371-Lorenzo Hayes, et al v. Seaboard Coast Line Railroad Co., et al- with said Savannah Case for trial in the seco stages of this case.
April 11	Filing Motion for entry of decision within thirty days, [of Plaintiff with certificate of service.
May 16	Filing Plaintiff's Proposed Conclusions of Law, with certificate of service.
May 30	Filing SCL RR Company's response to Plaintiff's Amendment to his proposed Order and Plaintiff's proposed conclusions of Law attached, wi certificate of service. (Original filed in #2371)
1975	
Mar. 3	Filing true copy of Order of the United States Court of Appeals for the Fifth Circuit denying Petition of Mandamus.

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Letter of Court of Appeals Clerk to District Judge, January 27, 1975

UNITED STATES COURT OF APPEALS

FIFTH CIRCUIT

OFFICE OF THE CLERK

January 27, 1975

Hon. Alexander A. Lawrence
Chief Judge
U.S. District Court
P.O. Box 9029
Savannah, Ga. 31402

Re: No. 75-1209—William English, Jr. vs.
Hon. Alexander A. Lawrence, etc.

Dear Judge Lawrence:

The Court has directed me to request that you file a response to the petition for writ of mandamus filed herein within 21 days. A copy of the petition is enclosed for your convenience.

Sincerely yours,

EDWARD W. WADSWORTH, Clerk

By /s/ RICHARD E. WINDHORST, JR.
Richard E. Windhorst, Jr.
Chief, Judicial Support Division

REWjr/sbl

cc: Mr. Jack Greenberg √
Mr. Fletcher Farrington
Mr. R. Jackson B. Smith, Jr.
Messrs. Charles Edwards
Malcolm MacClean
Mr. James Highsaw
Mr. Stanley Karsman
Mr. Bernard Portman
Mr. Edward A. Charron

Court of Appeals Docket Entries

(See Opposite) ☞

SUBJECT																CROSS APPEAL NO.	CASE NUMBER
PAS. W/	PRIS. W/OUT	2255 W/	2255 W/OUT	SOC. SEC.	NLRB	P.C. DIV	P.C. FED	U.S. CIV.	TAX	BKCY	Ch. Adj. Section	CIVIL RIGHTS		SCHOOL	CROSS APPEAL		75-1209
								X									

CIRCUIT 5 APPEAL ___ FROM Southern DISTRICT OF Georgia AT Waycross

DATE DOCKETED 1-23-75 $50 FEE PAID 1-23-75 JUDGE Alexander A. Lawrence

DATE NOTICE OF APPEAL FILED

C.A. DOCKET NUMBER CA 691

WILLIAM ENGLISH, JR.,

Petitioner,

versus

HON. ALEXANDER A. LAWRENCE, U.S. District Judge for the Southern District of Georgia, Waycross Division,

Respondent.

APPEARANCE FILED-DATE	CODE	ATTORNEYS FOR APPELLANT	ARG
1-6-75	X	Jack Greenberg, 10 Columbus Circle, Suite 2030, New York, New York 10019	
1-4-75	V	Morris J. Baller, -do-	
		Fletcher Farringhton, 208 East 34th Street, Savannah, Ga. 31401	
		Charles Edwards, P.O. Box 9848, Savannah, Ga. 31402 (for Seaboard Coastline)	
		Malcolm Maclean -do-	
		James Highsaw, 1015 18th St., N.W., Washington, D.C. 20036 (for Union def.)	
		Stanley Karsman, 111 W. Congress St., Savannah, Ga 31402 (for Union)	
		Bernard Portman, 302 E. Liberty St., Savannah, Ga. 31401 (other employe	
		Edward A. Charron, 500 Water St., Jacksonville, Fla. 32202 (Seaboard)	
APPEARANCE FILED-DATE	CODE	ATTORNEYS FOR APPELLEE	ARG
		Alexander a. Lawrence, Chief Judge, P.O. Box 9029, Savannah, Ga. 31402	
		R. Jackson B. Smith, Jr., U.S. Atty., P.O. Box 2017, Augusta, GA. 2017	

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MOTIONS

Motion to or for:	Response Filed By	Date	Granted	Denied	By Court	By Clerk	Date
1-23-75 Mandamus (Lee (Dun)) 1-23-75				✓	✓		2-22-75 ORC ILG-D
Docket Appeal Out of Time							
Reinstate Appeal							
Stay Further Proceedings in CA							
Stay Pending Appeal							
Injunction Pending Appeal							
Consolidate Appeals							
Leave to Appeal IFP							
Bail Pending Appeal							
Withdraw as Counsel							
Appointment of Counsel							
Leave to File Supp. Record							
Hearing on Original Record							
Hearing on Orig. Rec. & Typed Brief							
Leave to File Typed Brief							
Leave to File Brief in Excess Pgs.							
Dismiss by Appellant							
Dismiss by Appellee							
Amicus Curiae							
Leave to File Supp. Brief							
Stay of Mandate							
Recall of Mandate							

OTHER DOCKET ENTRIES Ltr. 1-21-75 (Dun)

/27/75	Flg. motion of Seaboard Coast Line Railroad Co. to dismiss petition for writ of mandamus.
/27/75	Flg. motion of Brotherhood of Railway and Airline Clerks to dismiss petition for writ of mandamus.
/27/75	Issg. certified copy of mandamus denied order to Clerk

CODE TO ENTRIES

ARG	– Argued
CE	– Clerk's Endorsement
E	– East Courtroom
EB	– En Banc Courtroom
F	– Flat
H	– Handwritten
J	– Sent to Judges
L	– Large
M	– Mimeo or Offset
P	– Printed
PT	– Preliminary Type
S	– Small
S9	– See Section 9
Sub	– Submitted
T	– Typed
W	– West Courtroom

JUDGMENT OR MANDATE INFORMATION

- Bill of Costs
- Flg. & Entg. Judgment
- Issg. Copy of Jdgt. to Bd & Cnsl.
- Jdgt. as Mdt. Issd. to Clerk
- Jdgt. as Mdt. Reissd. to Clerk
- Dismissal Issd. to Clerk
- Record on Appeal Retd. to Clerk
- Exhibits Retd. to Clerk
- Mandate Stayed to

11. SUPREME COURT INFORMATION No.

- Preparing Proceedings on Certiorari
- Preparing Supp. Proceedings on Cert.
- Transmitting Orig. Exhibits to S.C.
- Order of S.C. – Ext. to
- Notice of Flg. of Cert. Pet. on
- Order of S.C. ☐ Denied ☐ Granted
- Notice of Denial of Pet. for Rehearing
- Opinion of S.C. dated
- Judgment of S.C.

Plaintiff's Letter to District Judge, November 9, 1973

November 9, 1973

Honorable Alexander A. Lawrence
Chief Judge, United States District Court
Wright Square Post Office Building
Savannah, Georgia 31401

Re: *English* v. *Seaboard Coast Line Railroad Co.*, *No. 691 (Waycross Division)*

Dear Judge Lawrence:

We are in receipt of Charles Edwards' letter to the Court, dated October 24, 1973, regarding the *Williams* v. *Albemarle City Board of Education* case. We would strongly dispute the Company's assertion that this Court should follow that decision in this case.

The so-called promotion that Seaboard argues English should have taken would, according to the testimony, have given him only a token raise in pay. That salaried job also paid substantially *less* than the Group I position, in Waycross to which plaintiff was and is entitled. English would have been forced to leave his home (which he owns fully) and meet the much higher cost of living in Jacksonville (including the expenses, obviously greater, of habitations in Jacksonville). English would also have been forced to leave his second (part-time) job as chief administrator of a Waycross head-start program. Therefore, the "promotion" involved would not have "entailed economic gain to him" but would have been very costly; indeed, that is why Mr. English turned it down, as he testified.

Plaintiff's Letter to District Judge, November 9, 1973

The *Williams* case implies a very harsh and ungenerous rule on mitigation of damages in employment discrimination cases. It is inequitable, and it is certainly not the law in the Fifth Circuit. We are confident that the Court will not reach such a result by means of the dubious and narrow reasons that moved the panel in Williams.

In any event, the issue is not ripe for resolution at this stage. The mitigation question is obviously part of the second-stage proceedings, not part of the determination of liability. There are other mitigation issues to be explored at that time, in light of the still-developing law in this area. See, e.g., *Bing* v. *Roadway Express, Inc.*, —— F.2d —— (5th Cir. No. 72-2565, October 15, 1973). For the time being, the questions raised by Seaboard need not and should not be finally resolved.

Since, as Mr. Edwards points out, substantial time has passed since the filing of post-trial briefs, we also take the occasion to note for the Court recent developments in the law. We enclose a copy of the Sixth Circuit's decision in *Head* v. *Timkin Roller Bearing Co.*, No. 72-1994 (October 12, 1973). In this case, the Sixth Circuit adopts a strong rule on class back pay consistent with that of the Fourth Circuit in *Moody* v. *Albemarle Paper Co.*, which we have previously cited and briefed.

We are hopeful that the Court will proceed in the near future to enter a decision in this 1969-filed case. We note that, even if plaintiff prevails on the back pay issue, a second-stage hearing will be required before plaintiffs can obtain full relief in district court. Since plaintiff's road

Plaintiff's Letter to District Judge,
November 9, 1973

is such a long one, we are sure that the Court will understand his eagerness to move along it.

Respectfully yours,

/s/ MORRIS J. BALLER
Morris J. Baller

MJB/gr

cc: Charles Edwards, Esq.
Stanley M. Karsman, Esq.
James L. Highsaw, Esq.
Bernard M. Portman, Esq.

Plaintiff's Letter to District Judge,
February 6, 1974

February 6, 1974

Honorable Alexander A. Lawrence
Chief Judge, United States District Court
for the Southern District of Georgia
United States District Court House
Wright Square
Savannah, Georgia 31401

Re: English v. Seaboard Coast Line
Railroad Co., et al.,
No. 691 (Waycross Div.)

Dear Judge Lawrence:

On behalf of plaintiff William English and members of his class, I am writing to express our concern that the above-styled case has not yet been decided. We fully recognize that Your Honor has an unusually heavy and demanding schedule and that deciding this complex action will place a great demand on your time. Nevertheless, we are hopeful that a decision will be forthcoming in this action which has now been pending over four years, and was tried over one year ago. If there are any specific questions or issues on which clarification or further argument

Plaintiff's Letter to District Judge,
February 6, 1974

would be of assistance, we would be eager to respond promptly to the Court's inquiries.

Respectfully yours,

/s/ Morris J. Baller
Morris J. Baller

MJB/gr

cc: Malcolm Maclean, Esq.
James L. Highsaw, Esq.
Stanley M. Karsman, Esq.
Barnard M. Portman, Esq.
302 E. Liberty St.
Savannah, Ga. 31401

Plaintiff's Motion for Entry of Decision filed in District Court, April 11, 1974

In the

UNITED STATES DISTRICT COURT

For the Southern District of Georgia
Waycross Division

Civil Action No. 691

William English, Jr.,

Plaintiff,

v.

Seaboard Coast Line Railroad Company, et al.,

Defendants.

Plaintiff, William English, Jr., by his undersigned counsel, respectfully moves that the Court enter a decision in the above-styled cause within thirty days. In support of this motion, the plaintiff shows the following reasons:

(1) This case was filed in November, 1969 and is more than four years old. It was tried in January, 1973 and has been fully briefed and ripe for decision since March 3, 1973.

(2) The civil rights of plaintiffs and a large class of black employees are at stake in this litigation. These matters involve a significant public interest. The rights here at stake cannot be fully vindicated without a prompt decision by the Court.

Plaintiff's Motion for Entry of Decision filed in District Court, April 11, 1974

(3) In recognition of the public importance of prompt disposition of Title VII cases, Congress amended § 706(F)(5) in 1972 to provide:

> It shall be the duty of the judge designated pursuant to this subsection to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.

(4) In its review of the interlocutory appeal in this case, the Fifth Circuit also expressed the need for a prompt prosecution of the case. It noted, 465 F.2d at 48:

> We note in conclusion that this case is now over two years old and it is still in the pleading stage. Without attempting to designate responsibility for this delay, we urge all concerned to proceed in good faith to bring this litigation to a close.

The Fifth Circuit said this nearly two years ago on August 7, 1972.

(5) Other significant civil rights actions are stalemated pending a decision in this case. In *Coleman* v. *Seaboard Coast Line Railroad Co., et al.* (E.D. Va., No. 173-73-R), an order was entered on January 31, 1974 staying further proceedings pending decision on the motion to redefine the class in the case at bar. The latter motion cannot, of course, be decided until entry of a decision on the merits. In addition, the case of *Hayes* v. *Seaboard Coast Line Railroad* in this Court cannot and should not be tried or otherwise disposed of without the benefit of this Court's decision in *English*. To proceed with *Hayes* would be extremely wasteful of judicial time and the parties' resources.

Plaintiff's Motion for Entry of Decision filed in District Court, April 11, 1974

(6) The plaintiff has previously urged the Court informally to enter a decision in this case in two letter dated November 9, 1973 and February 6, 1974. In the absence of a decision following those letters, the plaintiff is compelled to resort to this motion for entry of a decision.

WHEREFORE, plaintiff respectfully, but urgently, prays that the Court enter a decision in his case within thirty days.

Respectfully submitted,

/s/ MORRIS J. BALLER
JACK GREENBERG
MORRIS J. BALLER
Suite 2030
10 Columbus Circle
New York, N.Y. 10019

FLETCHER FARRINGTON
HILLS, JONES & FARRINGTON
208 East 34th St.
Savannah, Georgia 31401

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this 9 day of April, 1974, I served all counsel of record with the foregoing Motion for Entry of Decision Within Thirty Days by depositing copies of same in the United States Mail, airmail, postage prepaid.

/s/ MORRIS J. BALLER
Attorney for Plaintiff

Excerpt from Plaintiff's Pleading filed May 16, 1974

CONCLUSION

This case is ripe for entry of a decision in plaintiff's favor. It is a clear case. The facts have always been perfectly clear; the law has now become perfectly clear. This is also an old case. Relief is long past due. Accordingly, plaintiff urgently prays that, after allowing defendants a short period in which to reply to his latest submissions, the Court enter its decision within thirty (30) days.

Respectfully submitted,

HILL, JONES and FARRINGTON
208 East Thirty-Fourth Street
Savannah, Georgia 31401

By: FLETCHER FARRINGTON
FLETCHER FARRINGTON

JACK GREENBERG
MORRIS J. BALLER
Suite 2030
10 Columbus Circle
New York, New York 10019
Attorneys for Plaintiff

Excerpt from Plaintiff's Pleading filed May 16, 1974

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for all parties in the foregoing matter with a copy of this pleading by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon.

This 15th day of May, 1974.

/s/ FLETCHER FARRINGTON
Attorney for Plaintiff

Plaintiff's Letter to Chief Judge Brown, August 22, 1974

August 22, 1974

Honorable John R. Brown, Chief Judge
United States Court of Appeals
for the Fifth Circuit
600 Camp Street
New Orleans, Louisiana 70130

Dear Judge Brown:

Re: *English* v. *Seaboard Coast Line Railroad Co.*,
No. 691 (S.D. Ga., Waycross Division)

I write to you on behalf of the plaintiff in the above-styled action, both in your capacity as Chief Judge of the Circuit and as Presiding Judge of the panel that decided this case on appeal, 465 F.2d 43 (August, 1972). My concern is the pendency of this action over a long period of time prior to its resolution.

A brief chronology of this Title VII class-action case will set this letter in perspective. The underlying EEOC charge was filed in February, 1968. The action was filed in November, 1969. An interlocutory appeal was taken and decided on August 7, 1972 by a panel over which you presided. In that appeal, the decision concludes by noting that ". . . this case is now over two years old and it is still in the pleading stage. Without attempting to designate responsibility for this delay, we urge all concerned to proceed in good faith to bring this litigation to a close." On remand, the case was tried for six days beginning January 11, 1973.

Plaintiff"s Letter to Chief Judge Brown, August 22, 1974

The final post-trial brief was filed on March 1, 1973. The case has not yet been decided.

On November 9, 1973, plaintiff's counsel wrote to the District Court expressing their hope for entry of a decision. On February 6, 1974, counsel again wrote urging a prompt disposition of the case. Receiving no answer, plaintiff filed on April 11, 1974 a "Motion for Entry of Decision Within Thirty Days." On May 6, 1974, plaintiff filed further post-trial pleadings noting and discussing recent Fifth Circuit Title VII decisions pertinent to *English*. In concluding these pleadings, plaintiff again prayed that the Court enter its decision within thirty days after the filing of responsive pleadings by defendants. Defendant SCL filed a responsive pleading on May 30, 1974. Other defendants did not respond.

No decision has yet been entered.

Two other Title VII class action cases are stayed until, or otherwise awaiting, the decision in *English*. *Hayes* v. *Seaboard Coast Line R. Co.*, No. 2371 (S.D. Ga.) has been partially consolidated with *English* for the purpose of "second stage" proceedings. All proceedings in *Coleman* v. *Seaboard Coast Line R. Co.*, No. 173-73-R (E.D. Va.) have been stayed since January 31, 1974 pending decision on the class action in *English*. Thus, in addition to the civil rights of the 100-odd members of the *English* class, the determination of the rights of hundreds of other persons depends on obtaining a decision in *English*.

We recognize the unusually large caseload of the District Court for the Southern District of Georgia and also recognize the additional administrative burdens imposed on

Plaintiff"s Letter to Chief Judge Brown, August 22, 1974

Judge Lawrence as Chief Judge of that district. We do not by this letter suggest that Judge Lawrence is other than a hard working and conscientious judge. Nevertheless, we are compelled by the absence of a decision to seek your assistance in enabling Judge Lawrence to address himself to the *English* matter.

We suggest that it would be appropriate for your Honor, as chief administrative officer of the Circuit, to make such arrangements as might assist Judge Lawrence with his heavy workload in order that he can dispose of this very old case.

Any assistance that you can render will be greatly appreciated.

Yours very truly,

Jack Greenberg

nm

cc Hon. Alexander A. Lawrence
Malcolm Maclean, Esq.
Stanley M. Karsman, Esq.
Barnard Portman, Esq.
Fletcher Farrington, Esq.

bc William English, Jr.

Letter of Chief Judge Brown to Plaintiff's Counsel, September 11, 1974

UNITED STATES COURT OF APPEALS

FIFTH CIRCUIT

JOHN R. BROWN
CHIEF JUDGE
HOUSTON, TEXAS 77002

September 11, 1974

Jack Greenberg, Esquire
10 Columbus Circle
New York, New York 10019

English v. *Seaboard Coast Line Railroad Co.*

Dear Mr. Greenberg:

Following your letter I have made inquiry, and I am satisfied now that with the tremendous caseload facing Judge Lawrence in the Southern District of Georgia, including many having statutory priority, he is doing the best that is possible.

I am sure that he will get this case out just as soon as he can and understands fully the need for a decision at the earliest possible time.

Sincerely yours,

/s/ JOHN R. BROWN

JRB:sm
cc: Hon. Alexander A. Lawrence

Order of January 28, 1972

LAWRENCE, Ch. J.: After evidence being presented it is ordered that: (1) Local Lodge No. 5 and Local Lodge No. 1586 will immediately surrender the charters of their respective local lodges to the Grand Lodge and the Grand Lodge will issue a new charter to the combined lodge.

(2) That all assets and liabilities of Lodges 5 and 1586 shall be transferred to the consolidated lodge to be used for the general purposes of the lodge except that no funds will be expended for attorneys' fees in this cause of action until further order of the Court.

(3) That the officers of the merged lodge for term ending December 31, 1974, will be as follows: The current President of Lodge No. 5 will be the President of the combined lodge. The current Vice-president of Lodge No. 1586 will be the Vice-president of the combined lodge. The current Secretary-Treasurer of Lodge No. 5 will be the Financial Secretary-Treasurer of the combined lodge. The current Recording Secretary of Lodge No. 1586 will be the Recording Secretary of the combined lodge. The current Legislative Representative of Lodge No. 5 will be the Legislative Representative of the combined lodge. The current Chairman of the Protective Committee of Lodge No. 5 will be the Chairman of the Protective Committee of the merged lodge. The current Chairman of the Protective Committee of Lodge No. 1586 will be appointed as Assistant Local Chairman of the combined lodge and will for the period set forth above retain his membership on System Board No. 3 with the full rights attached thereto.

(4) That the combined lodge will have sufficient members on its Protective Committee to serve the former member-

ship of Lodge No. 5 and the former membership of Lodge No. 1586.

(5) The present Trustees of Lodge No. 5 and Lodge No. 1586 will hold a meeting as soon as practical and will decide upon three members for the Board of Trustees of the merged lodge. The Trustee from the lodge which only has one Trustee chosen for the Board of Trustees of the merged lodge will become the Chairman of that Board of Trustees.

(6) The agreement between the officers of Lodge No. 5 and Lodge No. 1586 as set forth in a letter dated December 3, 1971, and signed by L. P. Buller will be effectuated.

(7) That the merger and issuance of the new charter shall be effective as of January 1, 1972.

Order of October 18, 1972

LAWRENCE, D. J.: The above matter having come before the Court upon various motions of the parties, and briefs and arguments of counsel having been received and considered,

It Is Ordered:

1. Defendant Seaboard Coast Line Railroad Company's motion for a jury trial of claims pursuant to the 1866 Civil Rights Act, 42 U. S. C. § 1981 is denied for the reasons stated by Judge Smith in *Williams* v. *Travenol Laboratories, Inc.*, [4 EPD ¶ 7918] 344 F. Supp. 163 (N. D. Miss. 1972).

2. On August 17, 1971, I ruled that "the class represented by plaintiff will include Negro employees of the Seaboard Coast Line Railroad Company at or near Waycross, Georgia, who belong to or are eligible for membership in either of the two defendant locals of BRAC, Number 5 and Number 1586, by reason of job classification." 3 EPD ¶ 8316 at p. 7071. Plaintiff now seeks to expand the scope of this litigation to encompass the entire Waycross Division. Defendant SCL in turn asks that the Court confine the action to the Stores Department in Waycross. At this stage of the proceedings, the Court denies both requests, and the prior ruling as to the scope of the case remains in effect.

3. Defendant SCL's motions to compel plaintiff to describe in detail his proposed method for computation of back pay are denied at this time with the suggestion that such information is obtainable through interrogatories to obtain plaintiff's theory.

4. Defendant SCL's motions to dismiss the class action and attorneys' fees portions of the claim under 42 U. S. C. § 1981 are denied.

5. The joinder of former Transportation-Communication Employees Union members at or near Waycross having been accomplished by amended order dated October 18, 1972, defendant SCL's motion directed toward this end is moot.

6. Defendant SCL must supplement its answers to plaintiff's first interrogatories by providing the information requested therein as to all persons added to the scope of this litigation by hiring, transfer or seniority merger since the date of service of those interrogatories.

7. Plaintiff's motions to compel answers to discovery are denied as moot.

8. Defendants Dell Beasley, et al. (the "white clerks") have filed motions to dismiss the compaint for failure to state a claim and for lack of personal jurisdiction. This Court's order of September 7, 1971 ordered joinder of these employees under Rule 19. 4 EPD ¶ 7505. The Fifth Circuit affirmed this ruling on August 7, 1972, (4 EPD ¶ 7931), whereupon I ordered compliance with the mandate of the Court of Appeals on September 1, 1972. There is no relief sought against these defendants by way of injunctive relief or back pay, inasmuch as they were made parties under Rule 19 and the orders of this Court and the Fifth Circuit, and not pursuant to Rule 23(b) or (c). Their motions are denied.

9. Trial of this case shall be in two stages: The first, to commence January 8, 1973 in Savannah, shall deal solely

with the question of discrimination *vel non*. All questions of remedy, injunction, back pay, and attorneys' fees shall be reserved for hearing at a later date, after adequate time for preparation by all parties.

Order of November 16, 1973, adopting Memorandum Agreement of January 12, 1973

Order

LAWRENCE, C. J.: By the attached agreement dated January 12, 1973, BRAC Groups 1 and 2 were merged on a date-of-hire basis over the entire SCL system, effective March 1, 1973. The effect of this agreement is to abolish the distinction made between Group 1 and Group 2, thereby affording to Group 2 employees, both white and black, the opportunity to bid on former Group 1 vacancies on the basis of their seniority date established by the first day of their present continuous service with the Seaboard Coast Line Railroad Company or its predecessor lines.

The memorandum of agreement between SCL and BRAC dated January 12, 1973 is hereby adopted by this Court and made a part of this order. The parties hereto, their officers, agents, employees, servants and all other persons and organizations in active concert or participation with them, are hereby permanently enjoined and restrained from engaging in any employment practice or course of conduct which interferes with or is contrary to this Order.

MEMORANDUM AGREEMENT

Between the

Seaboard Coast Line Railroad Company

And its Employees Represented by

Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees

January 12, 1973

The parties hereto having reached an understanding to abolish separate grouping of the classes of employees rep-

resented by the organization signatory hereto, effective March 1, 1973;

It Is Agreed That:

1. There shall be eliminated all references to Groups 1 and 2 in the current working agreement of January 1, 1968, or any currently effective amendments, supplements or interpretations thereto.

2. Each employee now holding seniority in Group 1 or Group 2 on the effective date of this agreement shall be given as his seniority date in the district where he entered the employ of the Company or its predecessor companies, which is identified as his home district, his last date of entry into service on that district on a continuous basis on a position covered by the agreement with B. R. A. C. Employees who have left their home district and have established another seniority date in an elective district shall not have such seniority disturbed in the elective district.

3. After seniority dates have been established in accordance with paragraph 2 hereof, the names of all employees now appearing on separate Group 1 and Group 2 rosters for each district where there are parallel Group 1 and 2 rosters shall be dovetailed, on seniority basis, into a single roster for each such district. Employees who appear on both rosters shall be given the oldest date on the dovetailed roster. If, in merging seniority dates, two or more employees are found to have the same date they shall be placed on the dovetailed roster in the order of their birth dates, with the oldest employee shown first.

4. No employee shall, in the operation of this agreement, be entitled to displace other employees; however, they shall thereafter be entitled to place themselves in accordance with the provisions of the current working agreement.

5. Recognizing that the initial issuance of rosters pursuant to this agreement may result in disputes about established seniority dates, it is agreed that the initial issue of rosters shall be open to protest for a period of one hundred twenty (120) days from date of posting. If no protest is registered within that period, the date shown shall be regarded as correct and not subject to further protest.

6. All agreements, amendments, supplements, or interpretations in conflict with the provisions of this Memorandum Agreement are hereby cancelled insofar as the conflicting portions are concerned.

Order of January 13, 1974

Order

LAWRENCE, D. J.: An agreement dated January 12, 1973, merging BRAC Groups 1 and 2 over the entire SCL system, effective March 1, 1973, was adopted by Order of this Court on the 16th day of November, 1973.

The memorandum of agreement referred to above is hereby amended pursuant to the terms of a memorandum of agreement between SCL and BRAC dated January 30, 1974, attached hereto and incorporated by reference herein. Said agreements as amended are hereby adopted by this Court and made a part of this Order. The parties hereto, their officers, agents, employees, servants and all other persons and organizations in active concert or participation with them, are hereby permanently enjoined and restrained from engaging in any employment practice or course of conduct which interferes with or is contrary to this Order.

MEMORANDUM AGREEMENT
Between the
SEABOARD COAST LINE RAILROAD COMPANY

and

All that Craft or Class of Clerical,
Office, Station and Storehouse Employees
Represented by the

BROTHERHOOD OF RAILWAY, AIRLINE AND STEAMSHIP CLERKS,
FREIGHT HANDLERS, EXPRESS AND STATION EMPLOYEES

Rule 13 of the current Clerks' working agreement, effective January 1, 1968, is changed, modified and amended to read as follows:

(A) Employees making application for positions bulletined on other seniority districts will, if they possess sufficient fitness and ability, be given preference on a seniority basis over non-employees or employees not covered by these rules to any vacancy not filled by an employee holding seniority in the district where the vacancy occurs.

(B) Employees transferring under this rule will carry with them all seniority to the new seniority district and their name and date will be dovetailed onto the roster. Seniority established in the former seniority district will be forfeited and the employee's name removed from the former seniority district roster.

(C) Employees desiring to transfer under this rule will do so in writing to the Carrier official responsible for the assignment of employees in the seniority district to which a transfer is desired, with a copy to the employee's immediate supervisor and to the officer issuing the seniority roster on which the employee's name appears. A brief resume of the service record must be prepared by the employee and accompany the request, such resume to be prepared on form supplied by the Carrier, copy of which is attached and made a part of this agreement. An employee will be permitted to make a request for a specific vacancy, at a specific location, or a request general in nature for any vacancy that may occur in the seniority district to which transfer is desired. Those employees filing an application for transfer prior to time a vacancy is bulletined shall be given preference over those who file for a transfer during or after the vacancy is bulletined. Where an employee has made a specific or general request for a vacancy, such request will expire on the following December 31st, or upon the employee's failure to accept a position as the senior qualified applicant. Written notification must be extended to the applicant within

five (5) calendar days of the close of the bulletin period, and acceptance or rejection shall be signified in writing, within five (5) calendar days from the date of notification. An employee whose request for transfer has expired may renew same at any time.

(D) The provisions of Rule 12 of the current working agreement shall be applicable to an employee transferring from one seniority district to another. However, where an employee is disqualified on the position to which transferred in the new seniority district, fall-back rights are contemplated and such employee may elect to have seniority restored on former district roster by filing notice of such election in writing with Carrier official issuing the seniority roster, with copy to the General Chairman, within five (5) calendar days from the date of disqualification. If such an election is not filed within said period, the employee shall retain seniority on the district to which transferred.

(E) All employees who transferred from one seniority district to another prior to the effective date of this amendment shall not have disturbed their seniority as now held; however, any employee desiring to have the earliest district seniority transferred to the district where currently employed may elect to do so by filing such election in writing, within thirty (30) calendar days from the effective date of this agreement, with Carrier officials issuing the involved seniority rosters, with copy to the General Chairman. An employee not making such election will use seniority as shown on roster where currently employed for bidding, displacement and transfer purposes, except where an employee is returning from an elective district to the employee's former district, whereupon seniority in the elective district will be forfeited.

(F) An employee who fails for any reason to utilize the provisions of Paragraph (E) hereof within the time specified therein, because of absence due to being on vacation, leave of absence, furloughed or occupying excepted or official position, shall be permitted to exercise the option set forth in (E) above, within the thirty (30) calendar day period immediately following return to service on a position under the provisions of this agreement.

(G) No employee shall, in the operation of this agreement, be entitled to displace other employees; however, they shall thereafter be entitled to place themselves in accordance with the provisions of the current working agreement.

(H) Any employee who prior to this agreement was not required to change seniority districts or residence to maintain protective benefits will not be required to do so by operation of this agreement.

(I) Revised seniority rosters necessitated by the application of this amendment shall be issued as soon as possible after the expiration of the thirty (30) calendar day period provided in Paragraph (E) hereof and, if issued prior to July 1, 1974, shall be regarded as meeting the requirements of Paragraph 5(a) of the current working agreement, except that such rosters shall be open to protest for a period of 120 calendar days from the date of posting. If no protest is registered within that period, the date shown shall be regarded as correct and not subject to further protest.

(J) A copy of this agreement shall be posted on all bulletin boards and placed in bulletin books at all locations where bulletins for clerical positions are ordinarily and

customarily displayed for a period of not less than sixty (60) calendar days from the effective date of this agreement.

(K) All agreements, amendments, supplements, or interpretations in conflict with the provisions of this Memorandum Agreement are hereby canceled insofar as the conflicting portions are concerned.

The changes in the existing collective bargaining agreement set forth above shall become effective March 1, 1974, or ten (10) calendar days from the date (whichever comes later) the Honorable Judge Lawrence approves this modification in the seniority system.

Order of District Court in *Hayes* v. *Seaboard Coast Line Railroad Co.*, S.D. Ga., Savannah Div., No. 2371 (March 22, 1974)

Lorenzo Hayes et al., Plaintiffs v. *Seaboard Coast Line Railroad Company et al., Defendants.*

United States District Court, Southern District of Georgia, Savannah Division. No. 2371. March 22, 1974.

Order

LAWRENCE, C. J.: The above action having come before the Court upon motions of Seaboard Coast Line Railroad Company, and briefs and arguments of counsel having been received and considered, it is

Ordered, that this action be and hereby is consolidated with the pending action in the Waycross Division of this Court styled as "*William English, Jr. v. Seaboard Coast Line Railroad Company, et al.*, Civil Action No. 691," for trial in the second stage of that case; and it is

Further Ordered that, as this Court has previously ruled, all allegations with respect to the seniority or employment status of former Savannah Union Station Company employees shall be dealt with at such trial.